

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

In Re:) Chapter 7
) No. 21-11886
MARGARET IENG)
)
Debtor) APPLICATION OF SPECIAL COUNSEL
) FOR ATTORNEYS' FEES & COSTS IN
) PERSONAL INJURY SETTLEMENTS
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Paul B. Apple, duly appointed Special Counsel in this proceeding, respectfully applies for the payments of attorneys' fees and costs incurred in representing the above named debtor in two (2) of the three (3) personal injury settlements so far. This motion is supported by the Declaration of Special Counsel In Support of Attorneys' Fees & Costs with attached [herein Declaration of Special Counsel] Exhibits 1-4 and the following.

BACKGROUND

I am a licensed attorney in the State of Washington working as a Senior Attorney Litigator for The Law Offices of Steven D. Weier, P.S., whose address is 331 Andover Park East, Tukwila, Washington 98188. I was licensed to practice law in 1992 and my WSBA# is 21846. My practice regularly involves matters related to personal injury claims. I have been practicing for over thirty

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STEVEN D. WEIER, PS**
331 Andover Park East
Tukwila, WA 98188

(30) years and have represented in court over one thousand three hundred (1300), personal injury cases including representing litigants in all aspects at trial, mandatory and UIM arbitrations and appeals. I also have served as an arbitrator for King and Pierce County Superior Court personal injury cases for over twenty years. I am a member of Million Dollar Advocates, attorneys who have litigated or settled personal injury cases more than one million (\$1,000,000.00) dollars. Some of my significant cases litigated include:

- Co-counsel in highway defect case of VanMoorsel v. City of Federal Way et al., (2019) filed in Superior Court King County Washington resulting in \$750,000 dollar settlement;
- Lead counsel in wrongful death case of Lee et.al., v. WA Dept. of Corrections (2011) filed in Superior Court King County Washington resulting in \$1.1 million dollar settlement for clients;
- Co-counsel in product liability case of Santosa v. DaimlerChrysler et.al. (2001) filed in Superior Court King County Washington resulting in \$5.1 million dollar verdict for client injured by defective Jeep;
- Co-counsel in product liability case of Kim et.al. v. General Motors. (2005) filed in United States District Court for Western District of Washington;
- Co-counsel in product liability case of Gray et.al. v. Ford Motor Co. (2005) filed in Superior Court King County Washington;

As appellate counsel I drafted and orally argued the prevailing brief published in the personal injury cases of, Curtin v. City of East Wenatchee, et al., 12 Wn.App.2nd 218, 457 P.3d 470 (Div. 3, 2020),(review denied) --- Wn.2d ---, 464 P.3d 196 (2020) and Kim v. Pham, 95 Wn.App. 439, 975 P.2d 544 (Div. 1 1999), (review denied) 139 Wn.2d 1009, 994 P.2d 844 (1999). I have experience with representing litigants in civil tort cases specifically motor vehicle collision cases involving personal injury.

PROCEDURAL HISTORY.

Ronald G. Brown, the Chapter 7 Trustee for the Debtor, Margaret Ieng, had applied to the court to enable me on behalf of my firm to serve as Special Counsel for the bankruptcy estate in this matter on personal injury claims related to three different motor vehicle accidents involving

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1 the debtor, Margaret Ieng. The claims occurred on July 18, 2018, October 24, 2018, and June 16,
2 2019. Special Counsel's law firm previously represented the debtor, Margaret Ieng, to pursue two
3 of these claims and later appeared on the third when the Debtor's prior attorney withdrew. Special
4 Counsel had advised the debtor that his law firm was unable to continue to represent the debtor to
5 pursue each of the three motor vehicle accidents, as they are now assets of her bankruptcy estate
6 subject to this court's control unless allow to do so by the bankruptcy court.

7 On March 29, 2022, an Order was entered in this case appointing me Special Counsel to
8 the Trustee with respect to the debtor's three (3) personal injury claims which occurred on occurred
9 on July 18, 2018, October 24, 2018, and June 16, 2019. Special Counsel's law office was not told
10 of the Bankruptcy filed by the debtor on October 12, 2021 at the time she signed the fee agreements
11 for two of the three cases.

12 Debtor signed fee agreements on September 11, 2019, (for the June 16, 2019 MVA); and
13 January 18, 2020, (for the July 18, 2018 MVA). Debtor was represented by another attorney, on
14 her October 24, 2018 claim who withdrew after filing her case the Superior Court prior to the
15 statute of limitations running. Special Counsel's firm agreed to represent the debtor on November
16 09, 2021, (for the October 24, 2018 MVA). *See Declaration of Special Counsel Exhibit 1.*

17 As of the date of this application, there are no Offers of Settlement on the debtor's July 18,
18 2019, motor vehicle accident case, and that matter is tentatively scheduled for a Superior Court
19 review hearing on April 21, 2023. However, there are Offers of Settlement that Special Counsel
20 recommends be accepted and approved on the June 16, 2019 and October 24, 2018, motor vehicle
21 accident cases.
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FACTUAL SUMMARY OF JUNE 16, 2019, MVA CLAIM.

On June 16, 2019, the Debtor was a front seat passenger in a vehicle driven by James Catena, who is currently a co-plaintiff that case represented by my office. Mr. Catena was driving his 2015 Toyota Camry when he exited Highway 410 at 166th Avenue East in Sumner, Washington. At the intersection ahead of them, their traffic signals, including the left turn signal, were green. The left turn signal remained green as they entered the intersection to turn left onto 166th Ave. E. At the same time, the defendant Ms. Ringler, was driving south on 166th Ave. E. in a 2018 Nissan Kicks. The traffic signal ahead of her was red. Ms. Ringler continued through the red light and drove directly into the path of Mr. Catena's vehicle causing a collision which injured both Mr. Catena and the debtor.¹ The Police investigated the collision and cited Ms. Ringler as the at fault driver. The only witnesses to the collision are the debtor, Mr. Catena, and Ms. Ringler. Liability was not initially an issue until after a lawsuit was filed and raised by the attorney for Ms. Ringler in the answer as an affirmative defense. The debtor did not wish to make a claim against her own driver as she also believes that the light was green for her vehicle.

INJURIES AND DAMAGES JUNE 16, 2019, MVA CLAIM

Immediately after the impact, Ms. Ieng, (the debtor), experienced pain in her head, neck and back. Once the EMTs had released her she went home. She hoped that rest and over-the-counter medication would alleviate her pain. Over the next day, her pain grew worse. She decided to seek medical care. On June 17, 2019 The debtor presented to RAINEIR SPORTS AND SPINAL REHAB for a chiropractic evaluation of her injuries. She had complaints of pain in her

¹ Mr. Catena's claims have been settled and his settlement does not impact the settlement of the debtor.

neck and back, as well as headaches. She rated her pain between a 5 and an 8. Upon examination, the following was noted:

Hypertonicity of the cervical spine, thoracic spine, left trapezius, right trapezius, lumbar spine, sacrum, sacroiliac spine, pelvis, buttocks, and right thigh; Edema of the lumbar, sacroiliac, and thoracic areas; Inflammation of the thoracic, lumbar, and sacroiliac areas; and Trigger points in the cervical, thoracic, lumbar, and sacroiliac areas.

Cervical ROM in degrees:

Flexion – 31/60;

Extension – 23/55;

Left lateral flexion – 20/40;

Right lateral flexion – 16/40;

Left rotation – 66/80; and

Right rotation – 59/80.

Thoraco-Lumbar ROM in degrees:

Flexion – 23/90;

Extension – 15/30;

Left lateral flexion – 19/35;

Right lateral flexion – 22/35;

Left rotation – 18/30; and

Right rotation – 20/30.

The following orthopedic tests were positive with pain:

Soto Hall;

Maximum Foraminal Compression, bilaterally;

Shoulder Depression, right side;

Straight Leg Raiser, bilaterally;

Patrick's, bilaterally;

Iliac Compression, bilaterally; and

Minor's Sign, bilaterally.

Cervical x-rays showed the following:

Degenerative disc disease at C4-C5 and C5-C6;

Bilateral facet arthrosis at C4-C5;

Reversal of cervical lordosis with anterior head position; and

Cervical spine listing to the left.

Lumbar x-rays revealed the following:

Bilateral facet arthrosis at L4-L5;

Right iliolumbar ligament ossification; and

Shallow right lumbar convexity.

She was diagnosed with: Strain of Lower Back; Strain of Back Wall of Thorax; Strain of Muscle, Fascia, and Tendon at Neck Level; Headache; Chest Pain; Paresthesia of Skin; Low Back Pain;

1 Pain in Thoracic Spine; and Cervicalgia. The debtor presented to Rainier Sports and Spine Rehab
2 38 times for chiropractic treatment from June 17, 2019 to December 10, 2019, which is within the
3 parameters of the Croft guidelines. The cost of this treatment was \$5,232.00.

4 On June 19, 2019, the debtor next presented for massage therapy, as referred by Dr. Earle
5 to SYBIL'S BODY TO MIND. She had complaints of pain in her shoulders, upper back, mid back,
6 and low back. Treatment consisted of Swedish massage, myofascial release, and pin and stretch
7 applied to the muscles of the neck, shoulders, mid back, lower back, and hips. She treated with
8 Sybil's Body to Mind for massage therapy 23 times from July 19, 2019 to October 9, 2019. The
9 cost of this treatment was \$2,482.60.

10 On August 22, 2019, the debtor next presented once for a massage therapy appointment
11 with VANKOSIN HEWITT. She had complaints of bilateral neck pain, mid back pain, and low
12 back pain. Upon examination, the taut/tender muscle fibers and limited ROM in the cervical,
13 thoracic, and lumbar regions were noted. Treatment included massage administered to the
14 scalenes, neck flexors, trapezius, piriformis, occipitals, subscapularis, rhomboids, and erector
15 spinae group. The cost of this treatment was \$140.00.

16 On October 24, 2019, the debtor presented for physical therapy. She had complaints of
17 pain in her lower back and legs, as well as migraine headaches. She rated her pain between a 4 and
18 a 7. Treatment included therapeutic exercises, manual therapy, and neuromuscular re-education.
19 The debtor presented to Select Physical Therapy 5 times from October 24, 2019 to February 12,
20 2020. The cost of this treatment was \$1,361.00.

21 The debtor's total medical specials are \$9,597.57. USAA paid under the PIP coverage,
22 \$7,254.24 of the medical special damages. The debtor's health insurer WSHCSA paid \$211.95
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1 and wrote off \$1,149.05 of the medical special damages. Leaving an unpaid balance of \$611.76
2 owing \$390.96 to Rainier Sports & Spine, and \$220.80 to Sybil's Body to Mind.

3 Based upon experience Special Counsel was able to place a valuation on the debtor's
4 personal injury case based upon the prior medical history of the debtor, medical records and bills
5 for treatment, the length of treatment and affects upon daily activity. Also based upon comparable
6 cases from the Northwest Jury Verdict Reports and Washington Arbitration Reports Special
7 Counsel placed a median valuation range of \$14,082.11 to \$23,424.57.

8 For the June 16, 2019 MVA, The Defendant driver's Kemper Insurance had
9 \$25,000/\$50,000 liability limits. Mr. Catena's USAA Insurance had PIP coverage for \$10,000 and
10 UM coverage for \$25,000/\$50,000 limits on the vehicle the debtor was riding in. Based upon this
11 valuation, there is no issue of policy limits. After negotiations, Kemper has offered \$13,200 (93%
12 of low median valuation range). Given the additional time and expense of pursuing litigation and
13 hopes of recovery a settlement greater than 68% of target is a fair offer if a client can net a recovery.
14 In our opinion we believe the settlement offer is fair and should be accepted. If there was no
15 bankruptcy the distribution allowed to parties would be as follows:
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Gross Settlement:		\$ 13,200.00
Less Reductions:		
Attorney Fees	\$ 4,400.00	
Deferred Fee (if any)	\$ -	
Net Attorney Fees		\$ 4,400.00
USAA	\$ 7,245.24	
PIP Waiver (if any)	\$ 2,530.36	
Net PIP Subrogation		\$ 4,714.88
Equian / Coordinated Care	\$ 417.41	
Health Insurance Waiver	\$ -	
Net Health Insurance Subrogation		\$ 417.41
Outstanding Medical Bills		
Rainier Sports & Spine	\$ 390.96	
Net Outstanding Medical Bills		\$ 390.96
Case Costs (See attached schedule)		\$ 210.02
Total Reductions		\$ 10,133.27
Net Proceeds to Client		\$ 3,066.73

REQUEST FOR COMPENSATION JUNE 16, 2019, MVA

Special Counsel's office has been working on the June 16, 2019 MVA lawsuit since being retained on September 11, 2019. Since that time Special Counsel's office has conducted extensive investigation; ordered records and bills; verified medical records, bills, and insurance payments; thoroughly review the case; drafted a comprehensive Demand Package to the third-party insurer; entered into negotiations; file a lawsuit when negotiations broke down; conducted discovery; and coordinated the case with the bankruptcy trustee and this court. The one third contingency fee of \$4,400.00 is reasonable. If Special Counsel billed hourly for the work on this case the amount would be \$8,002.50. A summary and itemization of the hours on this matter total 38.6 hours of

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1 time expended by attorneys and non-attorney staff based upon the documented dates and amount
2 of work performed on an hourly basis. *See Declaration of Special Counsel Exhibit 2.* The
3 Representation and Fee Agreement utilized by my firm provides primarily for contingent fees.
4 However, for purposes of calculating attorneys' fees based upon situations requiring Quantum
5 Meruit calculations or for asserting attorneys' liens on cases where such liens are warranted, the
6 Representation and Fee Agreements recite the hourly rate for attorneys in the firm as ranging from
7 \$750 to \$1,000 per hour. The hourly rate is based, in part, upon the revenues of the firm generated
8 by the attorneys, and the experience and success of the attorneys. In the fee agreement signed by
9 the debtor this information was disclosed. This information was disclosed in all three fee
10 agreements signed by the debtor prior to the bankruptcy. *See Declaration of Special Counsel*
11 *Exhibit 1.* Based upon my extensive legal experience The Weier Law firm bills Mr. Weier's hourly
12 rate at \$1,000.00 per hour while the firm bills my hourly rate at \$750.00. Paralegal work is billed
13 at \$75.00 per hour. *See Declaration of Special Counsel Exhibits 1 & 2* Special Counsel, Mr. Weier,
14 and several other paralegals performed the work on these files. The volume of work generated fills
15 a three (3) inch binder. *See Declaration of Special Counsel Exhibit 4.*

17 Based on the foregoing Special Counsel is requesting attorney's fees for representing the
18 debtor's June 16, 2019, claim \$ 4,400.00 in attorney fees and \$210.02 in costs be approved for this
19 claim.

20 FACTUAL SUMMARY OF OCTOBER 24, 2018, MVA CLAIM

21 On October 24, 2018, The Debtor had drove to a health care facility to receive treatment
22 from her previous motor vehicle accident in July 2018. The Debtor had pulled into a parking space
23 parked, and sat in her car waiting for her appointment time to enter the health care facility. While
24 sitting in her vehicle, the defendant Ferguson entered the compact parking space next to the debtor.
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1 Ferguson's oversized SUV swung into the spot sideswiping the entire driver's side of the debtor's
2 vehicle. Following the collision, both parties exited their vehicles, assessed the damages, and
3 exchanged information.

4 INJURIES AND DAMAGES OCTOBER 24, 2018, MVA

5 On October 24, 2018, the Debtor presented to Sea Mar Health for a follow-up examination
6 for her new injuries. Due to her pre-existing injuries from her previous motor vehicle accident in
7 July 2018, the Debtor experience a worsening of her neck and back pain. A series of X-Rays was
8 ordered, and the Debtor was proscribed additional physical therapy and. The cost of Sea Mar
9 Health treatment was \$806.66

10 On October 24, 2018, the Debtor presented to Diagnostic Imaging NW for Cervical and
11 Thoracic X-Rays which revealed slight loss of the normal cervical lordosis related to muscle spasm
12 or patient positioning. The cost of this treatment was \$224.50.

13 On October 25, 2018, the Debtor presented to Select Physical Therapy for additional
14 treatment due to this collision. The debtor received manual therapy and therapeutic activities as
15 well as hot and cold packs a The debtor was seen for thirty-five (35) treatments to February 28,
16 2019. The cost of this treatment was \$8,278.00

17 The debtor's total medical specials are \$9,363.16. There is no PIP coverage for this
18 collision. The debtor's health insurer WSHCSA paid \$448.23 and wrote off \$1,733.40 of the
19 medical special damages; leaving an unpaid balance of \$7,181.83 owing \$182.34 to Diagnostic
20 Imaging NW and \$6,999.00 to Select Physical Therapy.

21 Based upon his experience Special Counsel was able to place a valuation on the debtor's
22 personal injury case based upon the prior medical history of the debtor, medical records and bills
23 for treatment, the length of treatment and affects upon daily activity. Also based upon
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comparable cases from the Northwest Jury Verdict Reports and Washington Arbitration Reports
Special Counsel placed a median valuation range of \$17,396.44 to \$22,724.03.

For the October 24, 2018, MVA, The Defendant driver's Safeco Insurance had \$250,000
single liability limits. Based upon this valuation, there is no issue of policy limits. After
negotiations, Safeco has offered \$19,138.66 (well within the median valuation range). Given the
additional time and expense of pursuing litigation in hopes of recovering a settlement greater than
target, this is a fair offer, and, in our opinion the settlement should be accepted. If there was no
bankruptcy the distribution allowed to parties would be as follows:

Gross Settlement:		\$ 19,138.66
Less Reductions:		
Attorney Fees	\$ 6,379.55	
Deferred Fee (if any)	\$ -	
Net Attorney Fees		\$ 6,379.55
Equian	\$ 1,482.46	
Health Insurance Waiver	\$ 561.27	
Net Health Insurance Subrogation		\$ 921.19
Case Costs (See attached schedule)		\$ 857.02
Total Reductions		\$ 8,157.76
Net Proceeds to Client		\$ 10,980.90

REQUEST FOR COMPENSATION OCTOBER 24, 2018, MVA

Special Counsel's office has been working on the October 24, 2018 MVA lawsuit since
being retained on November 09, 2021. Since that time Special Counsel's office had requested
the prior attorney's file and only received a minimal number of documents mainly the summons
and complaint that were filed. Special Counsel's office had to reconstruct the debtor's file with

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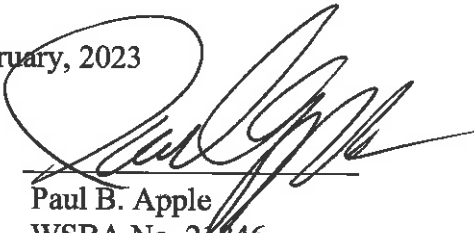
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1 extensive investigation; ordering records and bills; verifying medical records, bills, and
2 insurance payments; thoroughly review the case; drafted additional pleadings; conducted
3 discovery; prepare the client and defend the deposition of the Debtor; and coordinated the case
4 with the bankruptcy trustee and this court. The one third contingency fee of \$6,379.55 is
5 reasonable. If Special Counsel billed hourly for the work on this case the amount would be
6 \$12,632.50. A summary and itemization of the hours on this matter total 39.5 hours of time
7 expended by attorneys and non-attorney staff based upon the documented dates and amount of
8 work performed on an hourly basis. *See Declaration of Special Counsel Exhibit 3.* Since this
9 was a disputed litigation case Special Counsel had to appear in court and attorney time is greater
10 especially for pleading production, client deposition preparation, and defending the Debtor at her
11 deposition. The Representation and Fee Agreement utilized by my firm provides primarily for
12 contingent fees. However, for purposes of calculating attorneys' fees based upon situations
13 requiring Quantum Meruit calculations or for asserting attorneys' liens on cases where such liens
14 are warranted, the Representation and Fee Agreements recite the hourly rate for attorneys in the
15 firm as ranging from \$750 to \$1,000 per hour. *See Declaration of Special Counsel Exhibit 1.*
16 The hourly rate is based, in part, upon the revenues of the firm generated by the attorneys, and
17 the experience and success of the attorneys. In the fee agreement signed by the debtor this
18 information was disclosed. This information was disclosed in all three fee agreements signed by
19 the debtor prior to the bankruptcy. *See Declaration of Special Counsel Exhibit 1.* Based upon
20 my extensive legal experience The Weier Law firm bills Mr. Weier's hourly rate at \$1,000.00
21 per hour while the firm bills my hourly rate at \$750.00. Paralegal work is billed at \$75.00 per
22 hour. Special Counsel, Mr. Weier, and several other paralegals performed the work on these
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1 files. The volume of work generated fills a three (3) inch binder. *See Declaration of Special*
2 *Counsel Exhibit 4.*

3 Based on the foregoing Special Counsel is requesting attorney's fees for representing the
4 debtor's October 24, 2018, claim \$6,379.55 in attorney fees and \$857.02 in costs be approved
5 for this claim.

6 DATED this 22nd day of February, 2023

7 
8 Paul B. Apple
9 WSBA No. 21846

CERTIFICATE OF SERVICE

I certify under penalty of perjury that I caused to be served on all parties or their counsel of record a copy of this document on the date below addressed as follows:

Ronald G. Brown, WSBA #8816
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P.O. Box 2369
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☐ Hand delivered by
☒ E-mail

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 22nd day of February, 2023, at Tukwila, WA.

 /s/
Angie Martinez
Litigation Paralegal